

LC02138/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

A N A C T

RELATING TO FISH AND WILDLIFE

Introduced By: Senators Sosnowski, Felag, Pichardo, DaPonte, and Walaska

Date Introduced: February 11, 2004

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

- 1 SECTION 1. Section 20-2-1.1 of the General Laws in Chapter 20-2 entitled "Licensing"
- 2 is hereby repealed.
- 3 ~~**20-2-1.1. Commercial fishing license moratorium.** -- (a) The commercial marine~~
- 4 ~~fishing licenses as provided for in sections 20-2-20(a), (b); 20-2-21; 20-2-24(a); 20-2-25; 20-2-~~
- 5 ~~26; 20-2-26.1(a), (b); 20-2-27(a), (b), (c)(1) -- (c)(4); 20-2-28(a) -- (c); 20-2-28.1(a); 20-4-1.2(1) --~~
- 6 ~~-(4); 20-5-1; 20-5-2; and 20-5-3 shall be issued for renewal only. No new licenses applicable to~~
- 7 ~~these sections shall be issued between July 1, 2001, and December 31, 2002. In order to obtain a~~
- 8 ~~license applicable to these sections between July 1, 2001, and December 31, 2002, an individual~~
- 9 ~~must provide proof that he or she possessed a valid Rhode Island commercial fishing license~~
- 10 ~~subsequent to July 1, 2000, and submit a license application to the department environmental~~
- 11 ~~management. The moratorium shall provide time for a continued study of the commercial marine~~
- 12 ~~fishing licensing program to insure the sustainable viability and use of marine fisheries, for a~~
- 13 ~~recommendation to the general assembly, in accordance with chapter 3.1 of this title, and for~~
- 14 ~~implementation of a new system of commercial fishing licenses as provided for in chapter 2.1 of~~
- 15 ~~this title.~~
- 16 ~~-(b) Notwithstanding the provisions of subsection (a), an existing license may only be~~
- 17 ~~transferred until January 1, 2003 to an immediate family member upon approval by the director.~~
- 18 ~~An immediate family member for the purposes of this subsection is defined as the spouse,~~
- 19 ~~mother, father, brother, sister, or child of the transferor. After January 1, 2003, transfers shall be~~

1 ~~governed by section 20-2.1-5.~~

2 SECTION 2. Section 20-2-14 of the General Laws in Chapter 20-2 entitled "Licensing" is
3 hereby amended to read as follows:

4 **20-2-14. Licenses -- Expiration and deadline for renewal.** -- (a) ~~Beginning January 1,~~
5 ~~2003, unless~~ Unless otherwise specified in this title, all licenses issued under this title shall be
6 annual and shall expire on December 31 of every year.

7 ~~(b) All marine fisheries licenses that are subject to renewal July 1, 2002, may be renewed~~
8 ~~for a six (6) month period ending December 31, 2002. The fee for the renewals shall be one half~~
9 ~~(1/2) of the amount for annual renewal of the licenses as otherwise provided for in this title.~~

10 ~~(c) Beginning January 1, 2003, for those commercial marine fishing licenses provided~~
11 ~~for in sections 20-2-20(a), (b); 20-2-21; 20-2-24(a); 20-2-25; 20-2-26; 20-2-26.1(a), (b); 20-2-~~
12 ~~27(a), (b), (c)(1) -- (c)(4); 20-2-28(a) -- (c); 20-2-28.1(a); 20-4-1.2(1) -- (4); 20-5-1; 20-5-2; and~~
13 ~~20-5-3, the following provisions shall apply: (1) unless otherwise specified in this title, an~~
14 ~~individual qualified to obtain a license must submit an application to the department of~~
15 ~~environmental management no later than February 28 of each year; license applications shall be~~
16 ~~deemed valid if submitted to the department prior to the close of regular office hours on February~~
17 ~~28, or if postmarked by February 28; (2) unless otherwise specified in this title, no new or~~
18 ~~renewed licenses shall be issued after February 28 of each year, unless an applicant has submitted~~
19 ~~an application by the February 28 deadline required by this section; and (3) the department shall~~
20 ~~notify all license holders, in writing, regarding the December 31 expiration and the February 28~~
21 ~~renewal deadline no later than November 1 of each year.~~

22 SECTION 3. Sections 20-2.1-2, 20-2.1-3, 20-2.1-4, 20-2.1-5, 20-2.1-6 and 20-2.1-12 of
23 the General Laws in Chapter 20-2.1 entitled "Commercial Fishing Licenses" are hereby amended
24 to read as follows:

25 **20-2.1-2. Purposes.** -- The purposes of this chapter are, through a system of licensure
26 that is clear, predictable and adaptable to changing conditions, to:

27 (1) Preserve, enhance, and allow for any necessary regeneration of the fisheries of the
28 state, for the benefit of the people of the state, as an ecological asset and as a source of food and
29 recreation;

30 (2) Provide Rhode Islanders who wish to fish commercially the opportunity to do so and
31 end the moratorium on issuance of new commercial fishing licenses so that new licenses may be
32 issued for the year beginning January 1, 2003, and each year thereafter;

33 (3) Allow residents who have fished commercially to sell their vessels and gear in a
34 manner that first, facilitates up-grading license levels among residents already in the fishery; that

second, provides lateral movement among residents who are holders of commercial fishing licenses to other types of fishing; and that third, enables new entrants into new commercial fishing;

(4) Respect the interests of residents who fish under licenses issued by the state and wish to continue to fish commercially in a manner that is economically viable: provided, it is specifically not a purpose of this chapter to establish licensing procedures that eliminate the ability to fish commercially of any resident as of the date of enactment who validly holds [a commercial fishing license and who meets the application renewal requirements set forth herein](#);

(5) Preserve and enhance full-time commercial fishing, with a high degree of participation by owner operated vessels, as a way of life and as a significant industry in Rhode Island;

(6) Establish principles, for a system of adaptive management, that shall be used by the department in licensure programs and fisheries management, which principles shall include:

(i) The foregoing purposes; and

(ii) As appropriate, necessary, and effective, the following measures:

(A) Regulation of the design and use of gear;

(B) Limitations on the amount of gear that may be used by a license holder;

(C) Restrictions on when and where commercial fishing may be done;

(D) Quotas and limitations on catch or landings; and

(E) Restrictions on the number of license holders;

(7) Provide a licensure system that facilitates data collection and management so that marine fisheries can be managed more efficiently and effectively. [In accordance with this purpose, the system shall include a firm annual renewal deadline, as established herein, for the submittal of applications to renew licenses or obtain new licenses. An annual grace period, as established herein, shall allow fishermen an additional opportunity to renew their licenses from the immediately preceding year, subject to payment of a late fee; however, after the expiration of the grace period, there shall be no opportunity to appeal the denial of a commercial fishing license unless the applicant can show that the failure to apply during the grace period was due to documented medical hardship.](#)

20-2.1-3. Definitions. -- For the purposes of this chapter the following terms shall mean:

(1) "Basic harvest and gear levels" means fishery-specific harvest and/or gear levels, established and regularly updated by the department by rule, which, in a manner consistent with the state or federally sanctioned management plans or programs that may be in effect, and to the extent possible given those plans and programs, provide a maximum level of participation for

1 commercial fishing license holders in accordance with applicable endorsements.

2 (2) "Commercial fisherman" means a natural person who catches, harvests, or takes
3 finfish, crustaceans, or shellfish from the marine waters for sale.

4 (3) "Council" means the marine fisheries council established by chapter 3 of this title.

5 (4) "Crustaceans" means lobsters, crabs, shrimp, and for purposes of this chapter it also
6 includes horseshoe crabs.

7 (5) "Director" means the director of the department of environmental management.

8 (6) "Endorsement" means the designation of a fishery in which a license holder may
9 participate at either basic or full harvest and gear levels. Endorsement categories and levels shall
10 be established annually by the department by rule, based on the status of the various fisheries, the
11 levels of participation of existing license holders, and the provisions of applicable management
12 plans or programs. At a minimum, endorsement categories and endorsement opportunities shall
13 include, but may not be limited to: non-lobster crustacean; lobster; non-quahaug shellfish;
14 quahaug; non-restricted finfish; and restricted finfish. Endorsements, when available, shall be
15 issued in accordance with applicable qualifying criteria.

16 (7) "Finfish" means cold-blooded aquatic vertebrates with fins, including fish, sharks,
17 rays, skates, and eels and also includes, for the purposes of this chapter, squid.

18 (8) "Fisheries sectors" means and comprises crustaceans, finfish, shellfish, as defined in
19 this section, each of which shall singularly be considered a fishery sector.

20 (9) "Full harvest and gear levels" means fishery-specific harvest and/or gear levels,
21 established and regularly updated by the department by rule, which, in a manner consistent with
22 the state or federally sanctioned management plans or programs that may be in effect, and to the
23 extent possible given those plans and programs, provide a maximum level of participation for
24 principal effort license holders in accordance with applicable endorsements and for all multi-
25 purpose license holders.

26 (10) "Shellfish" means quahogs, clams, mussels, scallops, oysters, conches, and
27 mollusks in general other than squid.

28 (11) "Student commercial fisherman" means a resident twenty-three (23) years of age or
29 younger who is a full-time student.

30 (12) "February 28" means the twenty-eighth (28th) day in the month of February or the
31 next business day if February 28 falls on a Saturday or Sunday for the purpose of application
32 submittals and renewal deadlines.

33 (13) "Medical hardship" means a significant medical condition that prevents a license
34 applicant from meeting the application requirements.

1 (14) "Penalty grace period" means sixty (60) days commencing February 28, as defined
2 herein, and shall only apply to renewals of licenses from the immediately preceding year;
3 provided, that for calendar year 2004 the grace period shall be ninety (90) days commencing
4 February 29, 2004.

5 **20-2.1-4. Licenses -- General provisions governing licenses issued. --** (a) Licenses and
6 vessel declarations required. - It shall be unlawful for any person in Rhode Island or the waters of
7 the state: (1) to catch, harvest, or to hold or transport for sale in Rhode Island any marine finfish,
8 crustacean, or shellfish without a license issued under the provisions of this title, provided,
9 however, that marine finfish, crustaceans, or shellfish may be transported by a duly licensed
10 dealer if the marine finfish, crustaceans, or shellfish has previously been sold by a duly licensed
11 person, or (2) to engage in commercial fishing from a vessel unless the vessel has been declared a
12 commercial fishing vessel as provided in section 20-2.1-5(2) and has a decal affixed to it or is
13 displaying a plate.

14 (b) Validation of license. - No license issued under this chapter shall be valid until
15 signed by the licensee in his or her own handwriting.

16 (c) Transfer or loan of license. - Unless otherwise provided for in this title, a license
17 issued to a person under this chapter shall be good only for the person to whom it is issued; and
18 any transfer or loan of the license shall be grounds for revocation or suspension of that license
19 pursuant to section 20-2-13.

20 (d) Reporting and inspections condition of license. - All persons granted a license under
21 the provisions of this chapter are deemed to have consented to the reporting requirements
22 applicable to commercial fishing actively that are established pursuant to this title and to the
23 reasonable inspection of any boat, vessel, net, rake, bullrake, tong, dredge, trap, pot, vehicle,
24 structure, or other contrivance used regularly for the keeping or storage of fish, shellfish or
25 crustaceans, and any creel, box, locker, basket, crate, blind, fishing, or paraphernalia used in
26 conjunction with the licensed activity by persons duly authorized by the director. The provisions
27 of section 20-1-8(a)(7)(ii) shall apply to these inspections.

28 (e) Possession, inspection, and display of license. - Every person holding a license issued
29 under this chapter shall have that license in his or her possession at all times while engaged in the
30 licensed activity and shall present the license for inspection on demand by any authorized person.
31 Any person who shall refuse to present a license on demand shall be liable to the same
32 punishment as if that person were fishing without a license.

33 (f) Application for license. - Every person entitled to a license under this chapter shall
34 file an application with the director or the director's authorized agent, properly sworn to, stating

1 the name, age, occupation, place of residence, mailing address, weight, height, and color of hair
2 and eyes of the applicant for whom the license is wanted and providing any other information that
3 may be required pursuant to rule in order to effectuate the purposes of this chapter, and pay the
4 fees as provided in this chapter. All licenses issued under this chapter shall be valid only for the
5 calendar year of issuance, unless otherwise specified in this chapter or in the rules and regulations
6 adopted pursuant to this chapter. If the person will be either the owner or the operator as provided
7 in section 20-2.1-5(5) of a commercial fishing vessel, the person shall declare on the application
8 for each commercial fishing vessel, the vessel name, length, horsepower, registration number,
9 federal permit number if any, gear type(s), the principal fishery or fisheries, and average
10 projected crew size.

11 (g) ~~Resident and non-resident licenses.~~ Application deadline, grace period for renewals,
12 and limitation on appeals after the deadlines. - For commercial marine fishing licenses provided
13 for in sections 20-2.1-5 and 20-2.1-6, the following provisions shall apply: (1) unless otherwise
14 specified in this chapter, an individual qualified to obtain a license must submit an application to
15 the department of environmental management no later than February 28 of each year; license
16 application shall be deemed valid if submitted to the department prior to the close of regular
17 office hours on February 28, or if postmarked by February 28; (2) unless otherwise specified in
18 this title, no new or renewed licenses shall be issued after February 28 of each year, unless an
19 applicant has submitted an application by the February 28 deadline required by this section; ~~and~~
20 (3) the department shall notify all license holders, in writing, regarding the December 31
21 expiration and the February 28 renewal deadline no later than November 1 of each year: ;(4) for
22 renewals of existing commercial marine fishing licenses that expire on December 31 of the
23 immediately preceding year, there shall be a grace period from the renewal deadline of February
24 28; licenses issued during the grace period shall be subject to a late fee in the amount of two-
25 hundred dollars (\$200) in addition to all other applicable fees; (5) except as provided for in
26 subsection 20-2.1-4(g)(4) the department shall not accept any applications submitted after
27 February 28; and (6) there shall be no right to appeal to the commercial fishing license review
28 board or the department of environmental management's administrative adjudication division
29 (AAD) for the rejection of any new license applications submitted after February 28, or any
30 license renewal applications submitted after the sixty (60) day grace period, except in the case of
31 a documented medical hardship as defined herein.

32 (h) Lost or destroyed licenses and duplicate licenses. - Whoever loses or by a mistake or
33 accident destroys his or her certificate of a commercial marine fisheries license may, upon
34 application to the department accompanied by an affidavit fully setting forth the circumstances of

1 the loss, receive a duplicate certificate for the remainder of the year covered by the original
2 certificate, for a fee of ten dollars (\$10.00) for each duplicate license.

3 (i) ~~Expiration and deadline for renewal. (1) Beginning January 1, 2003, unless~~
4 ~~otherwise specified in this title, all licenses issued under this chapter shall be annual and shall~~
5 ~~expire on December 31 of every year.~~

6 ~~(2) All commercial marine fisheries licenses that are subject to renewal July 1, 2002,~~
7 ~~may be renewed for a six (6) month period ending December 31, 2002. The fee for the renewals~~
8 ~~shall be one half (1/2) of the amount for annual renewal of the licenses as otherwise provided for~~
9 ~~in this title.~~

10 (j) Revocation of licenses.

11 (1) License revocation. - The license of any person who has violated the provisions of
12 this chapter, or rules adopted pursuant to the provisions of this chapter or rules and regulations
13 that pertain to commercial fishing and reporting issued pursuant to this title, may be suspended or
14 revoked by the director as the director shall determine by regulation. Any person aggrieved by an
15 order of suspension or revocation may appeal this order in accordance with the provisions of the
16 Administrative Procedures Act, chapter 35 of title 42.

17 (2) False statements and violations; cancellation of license. - Any person who willfully
18 makes a false representation as to birthplace or requirements of identification or of other facts
19 required in an application for license under this chapter, or is otherwise directly or indirectly a
20 party to a false representation, shall be punished by a fine of not more than fifty dollars (\$50.00).
21 A license obtained by any person through a false representation shall be null and void, and the
22 license shall be surrendered immediately to the director. No license shall be issued under this title
23 to this person for a period of one year from the date of imposition of a penalty under this section.

24 (3) Fake, altered, forged, or counterfeit licenses. - Every person who falsely makes,
25 alters, forges, or counterfeits, or who causes to be made, altered, forged, or counterfeited, a
26 license issued under this chapter or title or purporting to be a license issued under this chapter or
27 title, or who shall have in his or her possession such a license knowing it to be false, altered,
28 forged, or counterfeit, is guilty of a misdemeanor and is subject to the penalties prescribed in
29 section 20-1-16.

30 (k) Expiration. Unless otherwise specified in this title, all licenses issued under this
31 chapter shall be annual and shall expire on December 31 of each year. It shall be unlawful for any
32 person to fish commercially in Rhode Island waters on an expired license; and the application and
33 grace periods set forth in subsections 20-2.1-4(g)(1) and 20-2.1-4(g)(4) above shall not extend the
34 validity of any expired license.

1 (l) Notice of change of address. Whenever any person holding any commercial fishing
2 license shall move from the address named in his or her last application, that person shall within
3 ten (10) days subsequent to moving notify the office of boat registration and licensing of his or
4 her former and current address.

5 **20-2.1-5. Resident licenses.** -- The director shall establish as a minimum the following
6 types of licenses set forth in this section. In addition, the director may establish any other classes
7 and types of licenses and endorsements, consistent with the provisions of this chapter and with
8 adopted management plans, that may be necessary to accomplish the purposes of this chapter:

9 (1) Types of licenses.

10 (i) Commercial fishing license. - Rhode Island residents shall be eligible to obtain a
11 commercial fishing license; the license shall allow the holder to engage in commercial fishing in
12 fisheries sectors, per endorsement at basic harvest and gear levels. The annual fee for a
13 commercial fishing license shall be fifty dollars (\$50.00) and twenty-five dollars (\$25.00) for
14 each endorsement at the basic harvest and gear levels.

15 (ii) Principal effort license. - Duly licensed persons in a fishery as of December 31, ~~2002~~
16 of the preceding year, shall be eligible to obtain a principal effort license for the fishery sector for
17 which they were licensed on December 31, ~~2002~~ of the preceding year, which principal effort
18 license shall allow its holder to fish in a fishery sector at the full harvest and gear levels. The
19 annual fee for a principal effort license shall be one hundred fifty dollars (\$150). Principle effort
20 license holders, in addition to the fishery sector of their principle effort, shall be eligible to obtain
21 endorsements for the other fishery sectors at the full harvest and gear levels, if and when those
22 endorsements are made available; the annual fee for each other fishery sector endorsement shall
23 be seventy-five dollars (\$75.00). Principle effort license holders shall also be eligible to obtain a
24 commercial fishing license with endorsements except for fisheries in which the license holder can
25 fish at the full harvest and gear levels.

26 (iii) Multi-purpose license. - All multi-purpose license holders as of December 31, ~~2002~~
27 of the preceding year, shall be eligible to obtain a multi-purpose license, which shall allow the
28 holder to engage in commercial fishing in all fisheries sectors at the full harvest and gear levels.
29 At the time of application for a multi-purpose license and each annual renewal of it, the applicant
30 shall make a non-binding declaration of which fishing sectors the applicant intends to place
31 significant fishing effort during the period covered by the license. The annual fee for multi-
32 purpose license shall be three hundred dollars (\$300).

33 (iv) Special licenses.

34 (A) Student shellfish license. - A resident twenty-three (23) years or younger shall pay

fifty dollars (\$50.00) for a student commercial license to take shellfish upon provision of proof of full-time student status.

(B) Over sixty-five (65) shellfish license. - A resident sixty-five (65) years of age and over shall be eligible for a shellfish license to shellfish commercially and there shall be no fee for this license.

(2) Vessel ~~fees and special vessel gear licenses and fees~~ declaration and fees; gear endorsement and fees.

(i) Vessel declaration and fee. - (A) The department shall require the owner and/or the operator of a commercial fishing vessel to declare the vessel on the owner/operator's commercial fishing license. The declaration shall be made at the time of initial license issuance and each renewal, or prior to the vessels being used for commercial fishing by the owner and/or operator if the first usage of the vessel for commercial fishing occurs during the course of a year after the license has been issued or renewed. If the declaration is for a vessel of less than twenty-five feet (25') in length, the declaration shall be transferable to another vessel less than twenty-five feet (25') in length, provided the vessel is identified as commercial fishing vessel while it is being used for commercial fishing by displaying a plate as provided in section 20-2.1-4.

(B) The annual fee for each vessel declaration shall be twenty-five dollars (\$25.00) for the first twenty-five feet (25') or under, plus fifty cents (\$0.50) per foot for each whole foot over twenty-five feet (25'); this declaration fee shall entitle the holder to a decal. The holder of a valid decal for a vessel twenty-five feet (25') in length or under may obtain a plate from the department for display on a vessel twenty-five feet (25') in length that is being used temporarily for commercial fishing; the annual fee for a plate shall be fifteen dollars (\$15.00).

(ii) ~~Special vessel and gear licenses and fees.~~ Gear endorsements and fees.

(A) Shellfish dredging ~~license; fee~~ endorsement. - A resident of this state ~~shall pay an annual fee of two hundred dollars (\$200) for a license to~~ who holds a multipurpose license and/or an appropriate shellfish license is also eligible to apply for a shellfish dredging endorsement to take quahogs, mussels, and surf clams by dredges hauled by powerboat. The annual fee shall be twenty dollars (\$20.00).

(B) Fish trap ~~license~~ endorsements. - ~~Twenty dollars (\$20.00) per trap location in accordance with the provisions of chapter 5 of this title.~~ A person who holds a multi-purpose license and/or a principal effort license for finfish is also eligible to apply for a fish trap endorsement in accordance with the permitting provisions in chapter 5 of this title. The fee shall be twenty-dollars (\$20.00) per trap location for three (3) year period. Applicants who possessed a valid fish trap endorsement as of the immediately preceding year may obtain a fish trap

endorsement for the immediately following year, subject to the same terms and conditions in effect as the immediately preceding year. New fish trap endorsement opportunities shall be established by the department by rule, pursuant to applicable management plans and the provisions in chapter 5 of this title.

(C) Gill net ~~licenses~~ endorsements. - A person who holds a ~~multi-species participant~~ multi-purpose license and/or a principal effort license for finfish is also eligible to apply for a commercial gill net ~~permit~~ endorsement in accordance with the provisions of this section. The annual ~~recording~~ fee for a commercial gill ~~netting~~ net endorsement is twenty dollars (\$20.00). Applicants who possessed a gill net endorsement as of the immediately preceding year may obtain a gill net endorsement for the immediately following year. New gill net endorsements opportunities shall be established by the department by rule, pursuant to applicable management plans.

(D) Miscellaneous gear ~~licenses~~ endorsements. - The department may establish by rule any specific gear ~~licenses~~ endorsements that may be necessary or appropriate to effectuate the purposes of this chapter and facilitate participation in a specific fishery with a specific type of gear; the fee for such a gear ~~license~~ endorsements shall not be greater than two hundred dollars (\$200), but may be a lesser amount. This ~~license~~ endorsements shall be issued only in a manner consistent with the general requirements of this chapter, including specifically those governing residency.

(3) New licenses.

(i) Eligibility. - For new principal effort and multi-purpose licenses priority shall be given to applicants who have held a lower level of license for two (2) years or more, with preference to family members and crew members of a license holder who is retiring his or her license.

(ii) Priority or preference applicants. - A new license shall be granted to priority/preference applicants who have acquired vessel and or gear from a license holder who has retired a license, provided that as the result of any such transaction for each license retired not more than one new license may be granted, nor may the nominal effort, including the total number of licenses, in a fishery subject effort or catch restrictions be increased.

(iii) Availability of new or additional licenses. - New principal effort and multi-purpose licenses that increase the total number of licenses in the fishery may be made available by rule consistent with management plan for issuance effective January 1, in any year, based on status of resource and economic condition of fishery. Priority for new licenses shall be given to Rhode Island residents.

(4) Retirement of licenses. - Issuance of license shall not be deemed to create a property right such that the license can be sold or transferred by license holder; fishing licenses shall be surrendered to the state upon their non-renewal, forfeiture or revocation.

(5) Transfer for hardship. - Notwithstanding the provisions of section 20-2.1-4(c), a license may be transferred to a family member upon the incapacity or death of the license holder who has actively participated in commercial fishing. The transfer shall be effective upon its registration with the department. A family member shall be defined as the spouse, mother, father, brother, sister, child or grandchild of the transferor. The department shall make available as necessary operator permits to provide solely for the continued operation of a fishing vessel upon the illness, incapacity or death of a license holder who has actively participated in commercial fishing, which operator permits shall be subject at a minimum to the conditions and restrictions that applied to the license holder.

(6) Transfer of vessels and gear. - Vessels and gear may be sold, transferred, or disposed at the sole discretion of the owner; provided, however, that the subsequent level of use of the gear may be restricted in Rhode Island waters in order to accomplish the purposes of a duly adopted management plan or other duly adopted program to reduce effort.

20-2.1-6. Non-resident licenses. -- Subject to the rules of the department, non-residents may apply for the following commercial fishing licenses:

(1) Non-resident principal effort license. - (i) A non-resident principal effort license shall allow the holder to harvest, land, and sell in a lawful manner any species of finfish, per endorsement(s), at principal harvest and gear levels and as allowed in a management plan adopted by the department.

(ii) Duly Rhode Island-licensed non-residents in a commercial fishery as of December 31, ~~2002~~ [of the preceding year](#), shall be eligible to obtain a non-resident principal effort license with a single sector endorsement applicable to the fishery for which they were licensed as of December 31, ~~2002~~ [of the preceding year](#); provided: (A) that the state of residence of the person affords the same privilege in a manner that is not more restrictive to Rhode Island residents; (B) that those persons apply for the non-resident principal effort license no later than February 28, 2003; and (C) that those persons shall also be subject to any other restrictions that were applicable to the license as of December 31, 2002, which other restrictions may be altered or changed consistent with a management plan adopted by the department.

(iii) Persons not duly licensed as of December 31, ~~2002~~ [of the preceding year](#), shall be eligible to obtain a non-resident principal effort license, per endorsement, when available, in accordance with applicable qualifying criteria and as allowed in a management plan adopted by

the department, provided that the state of residence of the person affords the same privilege in a manner that is not more restrictive to Rhode Island residents.

~~(iv) Holders of non-resident principal effort licenses shall remain eligible to participate in their endorsed fishery sectors, at principal harvest and gear levels, if the license holders annually renew their licenses in accordance with applicable laws and rules, and provided that the state of residence of the person continues to afford the same privilege in a manner that is not more restrictive to Rhode Island residents.~~

~~(v)~~ (iv) The annual fee for a non-resident principal effort license shall be four hundred dollars (\$400), plus one hundred dollars (\$100) per endorsement.

(2) Non-resident commercial fishing license. - (i) A non-resident commercial fishing license shall allow the holder to harvest, land, and sell in a lawful manner any species of finfish, per endorsement(s), at basic harvest and gear levels and as allowed in a management plan adopted by the department.

(ii) Non-residents age eighteen (18) and over shall be eligible to obtain a non-resident commercial fishing license and, in accordance with applicable qualifying criteria, available fishery sector endorsements, provided that the state of residence of the person affords the same privilege in a manner that is not more restrictive to Rhode Island residents.

(iii) Holders of non-resident principal effort licenses shall not be eligible to obtain non-resident commercial fishing licenses with the same fishery sector endorsements.

~~(iv) Holders of non-resident commercial fishing licenses shall remain eligible to participate in their endorsed fishery sectors, at basic harvest and gear levels, if said license holders annually renew their licenses in accordance with applicable laws and rules, and provided that the state of residence of the person continues to afford the same privilege in a manner that is not more restrictive to Rhode Island residents.~~ Duly Rhode Island licensed non-residents in a commercial fishery as of December 31 of the immediately preceding year, shall be eligible to obtain a non-resident commercial fishing license in their endorsed fishery sector as of December 31 of the immediately preceding year provided:

(A) that the state of residence of the person affords the same privilege in a manner that is not more restrictive to Rhode Island residents; and

(B) that those persons apply for the non-resident commercial fishing license no later than February 28; and

(C) that those persons shall also be subject to any other restrictions that were applicable to the license as of December 31 of the immediately preceding year which other restrictions may be altered or changed consistent with a management plan adopted by the department.

(v) The annual fee for a non-resident commercial fishing license shall be one hundred fifty dollars (\$150), plus fifty dollars (\$50.00) per endorsement.

(3) Vessel declaration fees and vessel and gear license; fees.

(i) Vessel declaration. - The department shall require a non-resident owner and/or operator of a commercial fishing vessel to make a declaration for that vessel; which shall be made at the time of initial license issuance and each renewal, or prior to the vessel's being used for commercial fishing in Rhode Island waters by the non-resident owner and/or operator if the first usage of the vessel for commercial fishing occurs during the course of a year after the license has been issued or renewed, for a cost of fifty dollars (\$50.00), plus one dollar and fifty cents (\$1.50) for each whole foot over twenty-five feet (25') in length overall.

(4) New licenses. - Any resident of a state that accords to Rhode Island residents commercial fishing privileges that include an ability to obtain a new license to fish for finfish species that are subject to restrictions and/or quotas, may on species specific reciprocal basis be eligible to obtain commercial fishing licenses and principal effort licenses by endorsement as provided in this section, subject to availability and with the priority established in section 20-2.1-5(3)(iii).

20-2.1-12. Commercial fishing license review board. -- (a) There is hereby established within the department the commercial fishing license review board of five (5) members to be appointed by the governor for a term of five (5) years with the advice and consent of the senate, provided that for the initial appointments, two (2) shall be for a term of five (5) years, one shall be for a term of four (4) years, one shall be for a term of three (3) years, and one shall be for a term of two (2) years. Three (3) members shall be commercial fishers, one from each of the fisheries sectors; one of whom shall be a person with professional knowledge of fisheries management, and one of whom shall be an attorney, licensed to practice law for at least five (5) years and with environmental law expertise; the attorney member shall be the chairperson. Three (3) members of the board shall constitute a quorum. Members of the board shall serve until their successors are duly appointed. The purpose of the board shall be to hear requests for reconsideration of the preliminary denial of a commercial fishing license.

(b) Any person whose application for a commercial fishing license was denied by the office of boat registration and licensing may file a request for reconsideration to the commercial fishing license review board [unless the person is prohibited from said request pursuant to subsection 20-2.1-4\(g\)](#). Requests for reconsideration must be filed with the office of boat registration and licensing within ten (10) days of receipt of the denial. The review board shall consider the impact that issuance of the license will have on the fisheries management program

1 overall, equity with other license holders, consistency with prior agency decisions, consistency
2 with management plans, unreasonable hardship to the applicant and consistency with the
3 purposes of this chapter. The burden shall be on the applicant to demonstrate to the board that
4 they meet the criteria for a license.

5 (c) Within thirty (30) days of receipt of a request for reconsideration, the review board
6 shall issue a written recommendation to the office of boat registration and licensing. The decision
7 of the board shall state the specific grounds for its decision and the vote of the board. Within ten
8 (10) days of receipt of the decision of the board, the office of boat registration and licensing shall
9 issue a written decision affirming, denying or modifying the recommendation of the board and
10 stating the rationale for the decision. The applicant may appeal the decision of the office of boat
11 registration and licensing to the administrative adjudication division for environmental matters
12 pursuant to section 42-17.7-1 et seq. The written decision of the review board and the office of
13 boat registration and licensing shall be provided and made part of the administrative record upon
14 appeal.

15 (d) Nothing contained in this section shall affect the authority granted in chapter 17.7 of
16 title 42.

17 SECTION 4. Sections 20-5-1, 20-5-2, 20-5-3, 20-5-4, 20-5-5, 20-5-6, 20-5-8, 20-5-9, 20-
18 5-10, 20-5-11, 20-5-12, 20-5-13, 20-5-14, 20-5-15, 20-5-16, 20-5-18 and 20-5-21 of the General
19 Laws in Chapter 20-5 entitled "Fish Traps" are hereby amended to read as follows:

20 **20-5-1. ~~Fish traps — License required~~ Fish traps – Permit required.** -- It shall be
21 unlawful for any person to set a fish trap in the public waters of the state without first obtaining a
22 ~~license~~ permit as provided in this chapter. For the purposes of this chapter, "fish trap" means stub
23 and floating traps, weirs, pounds, nets, or any other equivalent contrivance or thing set on, in or
24 anchored to the bottom or shore used for the purpose of catching fish.

25 **20-5-2. ~~Persons to whom licenses issuable~~ Persons to whom permits issuable.** -- The
26 department of environmental management may issue ~~licenses~~ permits duly signed and under its
27 seal to set or erect and maintain fish traps, as provided in this chapter, to any resident of this state
28 or to any corporations incorporated in the state, licensed in accordance with chapter 2.1 of this
29 title, upon payment of ~~a license~~ an additional permit fee of twenty dollars ~~(\$10.00)~~ (\$20.00) per
30 trap location for the ~~license~~ permit period prescribed by section 20-5-9 for each ~~license~~ permit.

31 **20-5-3. ~~Application for license~~ Application for permit.** -- (a) Any person desiring a
32 ~~license~~ permit for a location for erecting a fish trap shall make application in writing to the
33 department of environmental management in any form and giving any information that the
34 department may require.

(b) Each application for a location for a fish trap shall fix definitely the position of the desired location with reference to prominent points on shore and shall also show the dimensions of the trap and of the leader to be set in the desired location, and any other details the department may require.

20-5-4. Distance between traps -- Length of trap leader. -- Except as provided in section 20-5-5 no ~~license~~ permit shall be granted for the erection within the public waters of the state of a fish trap any part of which is less than three thousand feet (3,000') distant from an adjoining trap, measured parallel with the general coastline at such point as determined by the department of environmental management, or for a greater length of trap and leader than two hundred eighty (280) fathoms; provided, that the department of environmental management may grant a ~~license~~ permit for the erection of a fish trap within a lesser distance of three thousand feet (3,000') from an adjoining trap if the parties interested agree in writing to a lesser distance.

20-5-5. Restricted locations off Rhode Island and Sakonnet River. -- No ~~license~~ permit shall be granted for the erection of a fish trap within that portion of the public waters of the state southerly of the island of Rhode Island, designated by the engineer's office of the department of the army as available fishing areas, lying easterly of Brenton's Reef and southerly of a line drawn from Coggeshall's Point to Sakonnet Light, except as follows:

~~Licenses~~ Permits may be granted for the erection of traps:

(1) Southeasterly from Seal Rock, so-called, in a line on range of White Church in Saunderstown over Seal Rock to the offshore limits of the outer area designated by the engineer's office of the department of the army; provided, that all traps on this line shall be of equal length including leaders and shall be so limited in length that permits for eight (8) traps may be granted;

(2) Southeasterly from Flat Rock, so-called, on the easterly side of Coggeshall's Point, in a line to the offshore limits of the inner or "summer" area designated by the engineer's office of the department of the army;

(3) In a line from the westerly side of Price's Neck, so-called, southwesterly for a distance not exceeding one thousand five hundred feet (1,500'); provided, that not more than two

(2) traps shall be ~~licensed~~ permitted in this line;

(4) In a line from the easterly side of Price's Neck, so-called, southeasterly for a distance not exceeding three thousand three hundred feet (3,300');

(5) Southeasterly from Coggeshall's Point in a line to the eastern limits of the outer area designated by the engineer's office of the department of the army;

(6) Southerly from Cormorant Rock, so-called, in a line for a distance of not exceeding seven thousand feet (7,000');

1 (7) For two (2) traps only on the line constituting the offshore limits of the outer area
2 designated by the engineer's office of the department of the army at a point five thousand feet
3 (5,000') east-southeasterly of the southeastern end of the line from Seal Rock described in
4 subdivision (1);

5 (8) For two (2) traps only beginning at a point ten thousand feet (10,000') east-
6 southeasterly of the southeastern end of the line from Seal Rock described in subdivision (1);
7 provided, that the traps and leaders described in subdivisions (7) and (8) shall extend parallel with
8 the Seal Rock line. The provisions of section 20-5-4 shall not apply to ~~licenses~~ [permits](#) for the
9 erection of traps granted under this section with the exception of the provision in section 20-5-4
10 that no ~~license~~ [permits](#) shall be granted for a greater length of trap and leader than two hundred
11 eighty (280) fathoms, which provision shall apply to this section.

12 **20-5-6. Continuity of traps.** -- (a) No more than two (2) traps shall be set together in any
13 continuous string of line, and there shall be a space of one hundred fifty (150) fathoms between
14 two traps set within which no trap, leader or other twine shall be placed.

15 (b) No more than three (3) traps shall be set, erected, or maintained by the holder of any
16 ~~license~~ [permit](#) issued hereunder in a manner to be consecutively arranged in any one of the lines
17 described in section 20-5-5; provided, that this subsection shall not be deemed to limit the total
18 number of traps that may be set, erected, or maintained in a line by a holder.

19 **20-5-8. ~~Preference of prior occupants in licensing~~ Preference of prior occupants in**
20 **permitting.** -- The director of environmental management shall, where there are two (2) or more
21 applicants for ~~licenses~~ [permits](#) for the same location or for locations that are less than three
22 thousand feet (3,000') apart, determine which applicant has continuously during the fishing
23 season occupied the location for the longer period of years; and the application who shall
24 establish a priority of location shall, if otherwise properly qualified, be entitled to receive a
25 ~~license~~ [permit](#) for the location.

26 **20-5-9. ~~Expiration and renewal of licenses~~ Expiration and renewal of permits.** -- (a)
27 All ~~licenses~~ [permits](#) issued under this chapter shall be for a three-year period or for that portion
28 thereof expiring on the last day of December of each third year thereafter.

29 (b) On termination of any ~~license~~ [permit](#), the department may renew the ~~license~~ [permit](#)
30 by issuing a new ~~license~~ [permit](#) in place of the ~~license~~ [permit](#), provided application for renewal is
31 made within ten (10) days before the termination in a manner similar to that required for
32 application for a ~~license~~ [permit](#) in section 20-5-3. Failure to apply for renewal shall operate to
33 leave the location available for an application by any other person.

34 **20-5-10. ~~Exclusive right of licensee~~ ~~Assignment of license~~ Exclusive right of**

1 **permittee -- Assignment of permit. --** (a) The holder of any ~~license~~ [permit](#), or the holder's heirs,
2 executors, administrators, successors, or assigns shall have the exclusive right to fish the location
3 by means of a fish trap, provided that the site is and has been actively fished.

4 (b) Any holder of a ~~license~~ [permit](#) may, with the approval of the director of
5 environmental management, transfer the ~~license~~ [permit](#) suitable person. This approval shall be
6 endorsed on the ~~license~~ [permit](#) in order to become effective.

7 **20-5-11. Inspection of traps. --** The director of environmental management shall cause
8 an inspection or inspections of the fish traps ~~licensed~~ [permitted](#) to be made at a proper time or
9 times in each year for the purpose of determining whether the traps are located in accordance with
10 the ~~license~~ [permit](#) for these traps and whether the ~~licensee~~ [permittee](#) is observing the rules and
11 regulations fixed by the director.

12 **20-5-12. ~~Suspension or revocation of license~~ Suspension or revocation of permit. --**
13 If, upon inspection, it appears that any trap is improperly located or it is otherwise being used in
14 violation of the rules and regulations fixed by the director, the director of environmental
15 management shall immediately cause notice to be given to the holder of any ~~license~~ [permit](#); and if
16 those facts are established at a hearing, the director may suspend or revoke the ~~license~~ [permit](#) .

17 **20-5-13. ~~Report as to traps placed -- Failure to occupy location -- Removal of license~~**
18 **~~from state~~ Report as to traps placed -- Failure to occupy location -- Removal of permit**
19 **from state. --** On or before the tenth day of January in each year every person holding a ~~license~~
20 [permit](#) pursuant to this chapter shall notify the department of environmental management in
21 writing, under oath, what traps were placed under the ~~license~~ [permit](#) during the preceding
22 calendar year. Failure to furnish this information makes the ~~license~~ [permit](#) null and void after that
23 date. Failure to place a complete fish trap on a ~~licensed~~ [permitted](#) location for a part of one
24 calendar year may, in the discretion of the director of environmental management, make the
25 ~~license~~ [permit](#) for the fish trap null and void; and the location will then become available for any
26 suitable applicant. A ~~license~~ [permit](#) for a fish trap location becomes null and void upon the
27 removal of the holder from the state.

28 **20-5-14. Removal of trap on cessation of use -- Closed season -- Damaged or**
29 **dilapidated traps. --** Upon ceasing to use any fish trap as authorized, that structure shall at once
30 be removed by the owner at the owner's expense and to the satisfaction of the director of
31 environmental management. Failure to remove it shall be considered sufficient grounds for
32 prosecution of the owner for maintaining a public nuisance or for revocation of the fish trap
33 ~~license~~ [permit](#). Unless otherwise specified by regulations adopted by the marine fisheries council,
34 all fish traps authorized in this chapter shall be completely removed by or before the last day of

1 December of each year; and no fish trap shall be reset before the first day of the following March.
2 All submerged or broken stakes must be promptly removed. Any fish trap damaged or allowed to
3 get into a dilapidated condition will be regarded as abandoned unless promptly removed or
4 rebuilt. Failure to do this will subject the owner to prosecution and forfeiture of the trap.

5 **20-5-15. Seizure of abandoned or unlawful traps -- Destruction or sale. --** The
6 department may take possession of any abandoned fish trap and appurtenances; or any fish trap
7 and appurtenances placed in a location for which no ~~license~~ permit has been obtained; or any fish
8 trap and appurtenances for which a ~~license~~ permit location has been obtained but which the owner
9 of the fish trap and appurtenances may willfully maintain in a wrong position or location; and
10 may destroy the fish trap and appurtenances or may dispose of them at public auction to the
11 highest bidder, first giving notice of the time and place of sale by publishing the notice at least
12 three (3) times a week for two (2) successive weeks in a newspaper of general circulation with
13 power to adjourn the sale from time to time, giving like notice of the adjournment; and make and
14 execute to the purchaser at the sale a good and sufficient conveyance of all right, title, and interest
15 in and to the fish trap and appurtenances; and to receive the proceeds of the sale and pay the
16 proceeds into the treasury of the state; and the state controller shall draw orders upon the general
17 treasurer for the payment of all expenses of taking possession and disposing of a fish trap and any
18 appurtenances, upon receipt by him or her of proper vouchers, approved by the director of
19 environmental management, and the general treasurer shall pay the orders out of moneys
20 appropriated for that purpose.

21 **20-5-16. Rules and regulations. --** The director of environmental management, with the
22 concurrence of the marine fisheries council, may adopt and amend any rules and regulations in
23 reference to fish traps, ~~licensed~~ permitted under this chapter, that may appear to him or her
24 necessary for the public safety and for the proper execution of this chapter.

25 **20-5-18. Willful injury to traps. --** Any person who willfully or maliciously cuts,
26 removes, displaces, tampers with, or in any way damages any trap, leader, or pound set by virtue
27 of the ~~license~~ permit provided for by this chapter shall be imprisoned not exceeding two (2) years
28 or fined not exceeding one thousand dollars (\$1,000), or both.

29 **20-5-21. Fish traps near Conanicut Island unlawful. --** It shall be unlawful to place
30 any fish trap, as defined in this chapter, in the public waters of this state within one mile of the
31 shore of the Island of Conanicut, and no ~~license~~ permit for this purpose shall be granted.

32 SECTION 5. This act shall take effect upon passage.

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FISH AND WILDLIFE

- 1 This act would repeal the commercial fishing license moratorium, would change the term
2 "licenses" to "permits", and would give a grace period for renewal of permits. This act would
3 allow persons who hold a multipurpose license to be eligible for a fish trap endorsement.
4 This act would take effect upon passage.

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LC02138/SUB A

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